

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

NICOLE VILLANUEVA,	:	
	:	C.A. No. 04-258-JJF
Plaintiff,	:	
	:	
v.	:	
	:	
CHRISTIANA CARE HEALTH SERVICES, INC.	:	
	:	
Defendant.	:	

**APPENDIX TO PLAINTIFF'S ANSWERING BRIEF IN OPPOSITION TO
DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

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DATED: June 30, 2006

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CHRISTIANA CARE
HEALTH SERVICES

**EMPLOYEE HEALTH
SERVICE REFERRAL**
SECTION I - TO BE COMPLETED FOR ALL REFERRALS BY DEPARTMENT HEAD OR SUPERVISOR (INSTRUCTIONS ON BACK)

NAME (LAST) <i>Villanueva</i>	(FIRST) <i>Nicole</i>	(M.I.)	DATE <i>4/9/03</i>	(TO BE COMPLETED BY THE TREATING FACILITY)	
FACILITY <i>CHR</i>	DEPT/UNIT <i>T3U</i>	SOCIAL SECURITY NUMBER <i>222-68-1281</i>	JOB TITLE <i>Unit Clerk/PT</i>	TIME IN <i>7/31/74</i>	TIME OUT <i>0850</i>
DATE OF BIRTH <i>7/31/74</i>			HOME PHONE: <i>266-7241</i>		

MEDICAL AUTHORIZATION:

I understand that Christiana Care maintains information in paper and electronic form.
I authorize EHS to access Christiana Care's information pertinent to my care

SYMPTOM OR PROBLEM:
EMPLOYEE SIGNATURE

1. ☐ OCCUPATIONAL INJURY/ILLNESS - COMPLETE BELOW
2. ☐ NON OCCUPATIONAL INJURY ILLNESS

AUTHORIZE SIGNATURE/SUPERVISOR OR MANAGER:

**ACCIDENT
OCCURRED**

HOSPITAL/SITE

DEPT / UNIT

DATE OF INJURY

HOUR OF DAY

MACHINE, TOOL OR OBJECT CAUSING INJURY / ILLNESS

THIS SECTION IS REQUIRED FOR OCCUPATIONAL INJURIES

LOCATION WHERE INJURY OCCURRED

DATE SUPERVISOR NOTIFIED

SUPERVISOR'S NAME

PHONE:

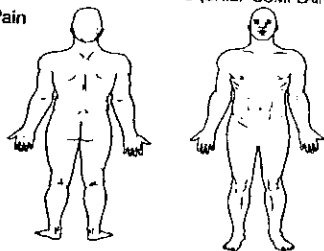
3. FULL DESCRIPTION OF INJURY (DESCRIBE EXACTLY WHAT HAPPENED IN ORDER OF EVENTS AND WHY IT HAPPENED. INDICATE APPARENT INJURY AND CONDITION OF EQUIPMENT OR APPAREL WHERE SIGNIFICANT)

WITNESS:

SECTION II - TO BE COMPLETED BY PHYSICIAN AND/OR NURSE

DIAGNOSIS OR SPECIAL INSTRUCTIONS (CHIEF COMPLAINT)

0: Worst Pain



: No Pain

 MEDICATION: *lorazepam*

ALLERGIES

PMH:

☐ DM ☐ HPTN

☐ PUD ☐ CAD/CHF

☐ Asthma/COPD

☐ OTHER

LMP:

TETANUS:

TEMP

PULSE

RESP.

BP

VISUAL ACUITY:

OD

OS

5 months pregnant

*Saw Dr Goldenberg 4/8 and he wants
to place her on sedentary duty &
cardiac arrhythmia*

D0234

B-0001

DISPOSITION:

- ☐ CLEARED FOR WORK
☐ SEND HOME
☒ REMAIN ON DUTY

 RESTRICTIONS: *Sedentary duty*
2. STATUS

- ☐ OCCUPATIONAL INJURY/
ILLNESS ☒ NON-OCCUPATIONAL
INJURY/ILLNESS

☐ REVIEW: (Reason)

REFERRED TO:

APPT:

PROVIDER:

R. Hest ARNP

RETURN VISIT DATE

RTW DATE



CHRISTIANA CARE
HEALTH SYSTEM

Human Resources-Employment

200 Hygeia Drive
P.O. Box 6001
Newark, DE 19714-9990

November 8, 2002

Nicole Villanueva
9 Van Buren Circle
Christiana Green
Newark, Delaware 19702

Dear Nicole:

On behalf of Christiana Care, I am pleased to offer you the Part Time Limited Benefits position of Unit Clerk in the Transitional Surgical Unit Department at our Christiana Hospital location. Your starting salary will be \$15.47 per hour.

Your anticipated start date is December 2, 2002 and one-day orientation for review of Christiana Care's guidelines and policies is scheduled for December 2, 2002 in the Wilmington Hospital Conference Center. Directions are enclosed.

This employment offer is contingent upon favorable references and the State-mandated background check with previous employers as well as passing of the pre-employment physical.

Feel free to call me at 623-0312 if any questions should arise. Welcome to the staff of Christiana Care.

Sincerely,

Kealey Barnes
Professional Recruiter

B-0002

Job Requisition Details

Status Open

History

Status Change	Date	User
Modified/Reviewed	08 Nov 2002	Kealey Barnes
Modified/Reviewed	08 Nov 2002	Kealey Barnes
Modified/Reviewed	11 Oct 2002	Victoria Fleiner
Opened	11 Oct 2002	Victoria Fleiner
Approved	10 Oct 2002	
Modified/Reviewed	10 Oct 2002	Kealey Barnes
Modified/Reviewed	10 Oct 2002	Victoria Fleiner

*** Job Title** Unit Clerk VI PT EPO

*** Duties and Responsibilities** The Transitional Surgical Department at the Christiana Hospital is currently recruiting for a qualified Unit Clerk to work full-time, every other weekend and every other holiday is required.

As a Unit Clerk, your duties will vary by department. Generally, you will handle clerical needs in the department, assisting other staff and patients. Your duties may include answering telephones, scheduling appointments, registering patients, ordering tests, maintaining patient charts, coordinating paperwork, taking messages, filing, faxing, inputting data into a computer system, answering patient, nurse and physician questions and assisting other staff in the department.

Unit Clerks have a lot of responsibility and must be detail oriented and have good math skills. Applicants with prior experience working in a medical office are ideal candidates. Depending on the department, medical terminology or medical claims insurance billing knowledge can also be a plus. Nursing students are encouraged to apply. A high school diploma or equivalent is required.

You Should Apply If:

You are detail oriented.

You have good basic math skills.

You are experienced with using medical terminology.

You have worked in a medical office in a clerical role for at least 1 year.

You have worked with medical or dental insurance claims for at least 1 year.

You have worked in an environment with face to face patient contact for at least 1 year.

*** Department** ✓ 16385 - Transitional Surgical Unit

*** Job Requisition #** 6298HS

*** Recruiter** Barnes, Kealey

*** Manager** McCloud, Karen

*** Location** Christiana Hospital

*** No. of Positions** 1
Positions Remaining 1

*** Internal Job Title** ✓ 20950 - Unit Clerk

Requisition Notes

*** Vice President** Talarek, D.

Position Replacement

Fill Type Permanent

Name of person replaced Wortham

Contact Phone Number 733-5013

Recruiter Phone 623-0312

B-0003

D0162

BR_Req_to_date_Query

Job Classification	Department	Internal Job Title	Schedule	Type of Position	Date open	Date closed	Req #
Clerical	16035 - Special Care Nursery	20950 - Unit Clerk	Morning	full-time	3/14/2003	5/19/2003	7632HS
Clerical	16055 - Surg/Critical Care Complex	20950 - Unit Clerk	Day	part-time/no benefits	3/5/2003	6/5/2003	7583HS
Clerical	16055 - Surg/Critical Care Complex	20950 - Unit Clerk	Evening	full-time	1/14/2003	7/16/2003	7041HS
Clerical	16061 - 4 East/West	20950 - Unit Clerk	Day	part-time	2/11/2003	5/29/2003	7344HS
Clerical	16131 - 3 Med/Surg	20950 - Unit Clerk	Evening	full-time	1/23/2003	5/29/2003	7128HS
Clerical	16215 - 5 C telemetry unit	20950 - Unit Clerk	Day	full-time	1/14/2003	7/28/2003	6990HS
Clerical	16235 - 4D Surgical	20950 - Unit Clerk	Evening	part-time/no benefits	4/10/2003	5/30/2003	7898HS
Clerical	16275 - 5B Medical	20950 - Unit Clerk	Morning	part-time	4/3/2003	4/30/2003	7779HS
Clerical	16285 - 5C Cardiac Telemetry	20950 - Unit Clerk	Evening	part-time	1/14/2003	9/5/2003	6991HS

D0464

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CHRISTIANA CARE

SUPERVISORY POLICY MANUAL

D-1	Leaves of Absence
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DATE: August 1, 1999

I. POLICY STATEMENT

Christiana Care recognizes that employees occasionally may need to request a leave of absence. Leaves of absence may be granted for personal or medical reasons, in accordance with provisions of the Family and Medical Leave Act (FMLA), and as described below. Approved leaves protect an employee's continuity of service and benefits accrued before the effective date of the leave. The granting of a leave also allows the employee to retain a right to their position provided the employee returns to work within the timeframes specified and is physically capable of performing the essential functions of the position (with or without reasonable accommodations).

II. SCOPE

This policy applies to all Christiana Care subsidiaries.

III. DEFINITIONS

A. Leave of Absence

As soon as it has been determined that an employee's absence qualifies under FMLA, the employee must be placed on a leave of absence effective the first day of absence from work, if the employee is eligible (see Section III A of this policy) and designate it as FMLA leave. An approved leave is a benefit which protects an employee's continuity of service and benefits accrued prior to the effective date of the leave.

B. Job Guarantee

Employees who have been granted a leave of absence will be guaranteed their position or an equivalent position provided their total leave time does not exceed twelve (12) weeks during the last twelve month rolling period, measured backward from the current leave. This is the maximum entitlement under FMLA. The employee must also be physically capable of performing the essential functions of the position (with or without reasonable accommodations). Medical leave can be granted for a period up to twenty-four weeks in a twelve month rolling period, measured backward from the current FMLA leave, but the employee is not entitled to a job guarantee in the last twelve weeks of such leave. In those cases, the Employment section of Human Resources will attempt to place the employee in a position based upon suitable, available positions within Christiana Care. This is

B-0005

D0237

06/30/2006

further explained in Section III D of this policy.

IV. GUIDELINES

A. Eligibility

Full, part-time and WIN employees who have completed six months or more of continuous service may be granted a leave for medical and personal reasons. Information concerning other types of leaves are outlined in policies D-2 (Military Leave) and E-5 (Worker's Compensation).

B. Types of Leave

1. Medical Leave

a. An eligible employee who is unable to work due to injury/illness or birth of a child must apply for a FMLA leave as soon as the employee realizes a need for a leave. The effective date of the leave will be retroactive to the first day of absence from work. The employee can elect to use accrued disability leave or paid leave time or go into unpaid status.

Medical leaves, including leaves for child birth, can be extended to a maximum period of twenty-four weeks during a twelve month rolling period, measured backward from the current FMLA leave, provided proper medical documentation is provided. Employees on leave must submit medical documentation on a monthly or periodic basis. Refer to sections III E and G of this policy concerning leaves extended beyond twelve weeks from the last day of work.

The maximum time allowed for all separate medical leaves can not exceed twenty-four weeks within a twelve month rolling period, measured backward from the current FMLA leave.

c. Employees will not be eligible for a personal leave following a medical leave except as provided for below.

d. All leaves taken for medical reasons under this policy will be designated as counting towards the employee's FMLA entitlement.

2. Personal Leaves

- a. An eligible employee may request a personal leave, under the FMLA, for birth and care of a newborn child within 12 months of the child's birth, for the serious health condition of a parent, spouse or child, adoption or placement of a child with the employee through foster care. The employee may elect to use accrued paid leave or be in an unpaid status for a maximum period of twelve weeks from the last day of active employment.
- b. Personal Leaves of absence of up to thirty days may also be requested by eligible employees to care for other family members not covered under the FMLA.

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- c. The maximum time allowed for all separate personal leaves can not exceed twelve weeks within a twelve- month rolling period, measured backward from the current FMLA leave.
- d. All leaves taken as personal will be designated as FMLA.

3. Intermittent Leaves and Reduced Leave Schedule

Under some circumstances, employees may be permitted to take an FMLA leave intermittently. To qualify for an intermittent leave under the FMLA, employees must have been employed for at least six (6) months. This will allow an employee to take a leave in several blocks of time rather than in one continuous period of time, or to work under a reduced work schedule by reducing the number of hours they work per week or day. The taking of a leave intermittently or on a reduced schedule should be monitored and employees should be informed that time taken in this manner will be counted towards their twelve week entitlement under the FMLA.

C. Effect of Leave on Attendance Policy

FMLA qualifying absences should not count as occurrences towards discipline but should be designated FMLA and counted towards the twelve week entitlement under the FMLA.

D. Effect of Leave on Benefits

- 1. Full time employees will be covered in the basic benefits program at no cost. Full time employees who participated in a higher level of coverage prior to leave status may continue that coverage as long as they pay the difference between basic coverage and higher coverage. Employees who participated in a lower level of coverage must continue that level of coverage in accordance with the terms of that coverage.
- 2. Part-time employees may continue current coverage by paying the cost of their coverage on the same basis as if actively employed.
- 3. WIN employees can continue current coverage on the same basis as if actively employed.
- 4. Leave time is considered as credited service for pension calculation purposes. (for leaves effective after October 1976.)
- 5. Disability leave and paid leave hours will only accrue when an employee is in an active pay status.

E. Effect of Leave on Reinstatement

- 1. An employee on leave for less than twelve weeks during a twelve month rolling period will be reinstated to their department and job or an equivalent job. The employee must also be physically capable of performing the essential functions of the position with or without reasonable accommodations.
- 2. The Employment section of the Human Resources department will interview an employee returning from a leave of greater than twelve weeks and will attempt to place such employee into a position which matches their skills. Placement will be based on availability of positions. A similar process will occur with employees able

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to return to work but unable to perform the essential functions of the position held prior to leave with or without reasonable accommodations. In the latter case, Employee Health Services will consult with Human Resources to discuss work limitations and capabilities.

3. Employees unable to return after the maximum duration of their leave will be terminated from payroll. When the employee is able to return to work, he/she can re-apply to the Employment section of Human Resources. Service credit rights described in policy A-3 shall apply.
4. Employees on a leave of absence greater than thirty days from their last day worked will have their performance review and merit review dates adjusted by the entire period of their leave. Such employees will be eligible for their merit increase effective the beginning of the pay period in which the adjusted date falls. Employees who have merit review dates which occur while they are on a leave will not be eligible for merit increases until they return from leave. The effective date of the increase will be either the beginning of the pay period in which they return from leave (if their leave was less than thirty days) or the employee's adjusted review date.

F. Effect of Leave on Job Bidding

1. An employee on leave status is not permitted to bid on open positions. If an employee is cleared to return from a leave after twelve weeks, their position is no longer available, and does not wish to accept a position offered, the employee may apply for other available positions at Christiana Care but there is no guarantee that the employee will be placed into that position. Once the maximum leave time has expired the employee will be removed from payroll.
2. Employees with medical limitations who can not return to their former positions, due to limitations, will be permitted to bid on positions for which they are qualified and able to perform the essential functions of the position, with or without reasonable accommodations. Once the maximum leave time has expired, the employee will be removed from payroll.

G. Process for Application, Approval, and Extension of Leaves

1. Employee's Responsibility

a. An employee may request a leave of absence for medical or personal reasons by completing the Request for Leave of Absence form. This form is available through the employee's department head or an Employee Relations Representative. For medical leaves, the employee should attach the Certification of Healthcare Provider. The employee should submit the completed form to the department head to secure approval.

b. Employees on medical leave must submit medical documentation on a monthly or periodic basis to:

- ▣ the department head for the first twelve weeks of leave;
- ▣ an Employee Relations Assistant for the next twelve weeks of leave extended).

B-0008

D0240

FAILURE TO MAINTAIN CONTACT WITH CHRISTIANA CARE AND SUBMIT REQUIRED DOCUMENTATION WILL RESULT IN TERMINATION.

c. Employees should contact the Benefits section of the Human Resources department to discuss the effect of a leave on their benefit status.

2. Department Head's Responsibility

- a. Upon review and approval of the employee's request, the department head should sign the request for Leave of Absence indicating the employee's status change. In cases where an employee is unable to complete the request for Leave of Absence and qualifies for LOA, the department head should complete the leave of absence request form. In the latter case, the employee should be sent a copy of the request for leave form so they are aware of their obligations while on leave status.
- b. The department head will comply with the twelve week job guarantee requirement and complete personnel action forms when leaves have been extended or terminated. If an employee has failed to comply with the terms of the leave, the department head must contact Human Resources for guidance.
- c. The department head should also contact an Employee Relations Representative when they would like to extend an employee's leave beyond the period of job guarantee so arrangements for follow-up can be made.
- d. When the employee is able to return from a medical leave, the department head should arrange for an appointment with Employee Health Services and notify the employee to bring a physician's note clearing him/her to return to work.

3. Employee Relation's Responsibility

- a. The Employee Relations Assistant will contact employees on medical leaves extending beyond twelve weeks and serve as a channel to monitor the medical documentation each month.
- b. When an employee is ready to return to work, the Employee Relations Assistant will arrange for an appointment with Employee Health Services and Employment so that placement options can be reviewed.
- c. The Employee Relations Assistant should discuss with and send a letter explaining options to employees unable to return at the expiration date of their leave (i.e., application for disability, retirement, future re-employment process) and ensure that paperwork is processed to terminate such employees from payroll.

4. Employee Health's Responsibility

- a. Employee Health Services will conduct physical exams with employees returning from leave and notify the department head or an Employee Relations Representative of the employee's clearance. In cases where an employee is unable to return to their former job, Employee Health Services should contact the Employment section to discuss the employee's status.

5. Employment Section's Responsibility

D0241 B-0009

- a. The Recruiter will work with the employee to find a suitable placement. When no suitable placement is available, the Recruiter should notify the Employee Relations Representative and continue to consider the employee for future appropriate openings.

Reviewed: _____

Revisions:

09/25/01

08/01/99

12/29/97

08/05/93

11/25/91

This page last modified 06/05/2002 14:58:36

SYNOPSIS	PAGE <	TOP ^	PAGE >
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4/16/03

Chris Collins

Re: Nicole ✓

12¹¹ PM

— Chris & let unk c heart rate > 100
c physically demanding job.

— C. Collins, Spk c her yesterday afternoon
really hot / yelled screamed — Spk c
a Horney — Can't do this.

— Chris contacted Dr. Colmoy as consult
— he suggested contacting cardiologist based on
we & know arrhythmias, if they were intermittent,
was with a trigger or could stay c knee trigger

— Chris called Cardiologist Goldenberg awaiting call.

— Chris Spk c ee — stated she self limits herself
by only going upstairs/down stairs one/day stays on
same floor — her heart rate is too fast 140
dr treating c needs — resting is now 110 — gets SOB
dizzy when high.

End
Conversation
12:55

— Dr. Goldenberg assistant — Per Chris — she self
limits herself — dr will call tomorrow.
Spk c assistant today

7/21/03 Chris Collins

Don
- thought - she would limit her
own activity -

- understands CCH's position

- will be f/u c N. Cole.

Cardiology Consultants, PA

PatientID: 158010
Patient Name: NICOLE VILLANUEVA
Date of Birth: 07/31/1974
DOS: 4-10-2003

RE: Nicole Villanueva

To Whom It May Concern:

Nicole has been under my care and from a cardiac standpoint may return to work with no restrictions.
Please contact my office if you should have any questions 302-366-1929.

Sincerely,

A handwritten signature in black ink, appearing to read "Edward M. Goldenberg".

Edward M. Goldenberg M.D.,F.A.C.C.
EMG/Imm

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www.CardioConsult.net

EDWARD M. GOLDENBERG, M.D., F.A.C.C.

MEDICAL ARTS PAVILION I, SUITE 220
4745 OGLETOWN-STANTON ROAD
NEWARK, DE 19713
(302) 366-1929

4/8/03.

Nicola Villanueva has.

Pregnancy induced increase

uric acid. Physical examination.

Pericarditis has uric acid.

At this time I have suggested

a sedentary position

Ed Goldenberg

copy - sent on letterhead via certified & regular mail
4/24/03

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Nicole Villaneuva
9 Van Buren Circle
Newark, DE 19702

April 24, 2003

Nicole Villaneuva
9 Van Buren Circle
Newark, DE 19702

2. Article Number
(Transfer from service label)

7002 2030 0003 7557 5396

PS Form 3811, August 2001

Domestic Return Receipt

102595-02-M-1035

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

B. Received by (Printed Name)

Nicole Villaneuva

☐ Agent

☐ Addressee

C. Date of Delivery

4/30

D. Is delivery address different from item 1? ☐ Yes

If YES, enter delivery address below: ☐ No

APR 30 2003

3. Service Type

☒ Certified Mail

☐ Express Mail

☐ Registered

☐ Return Receipt for Merchandise

☐ Insured Mail

☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

Dear Nicole:

Our records indicate the last day that you worked was April 9, 2003. Your absence requires that you be placed on a Leave of Absence. Christiana Care policy requires that employees must be employed with the organization for at least six months to be eligible for Leave of Absence consideration.

Since you have not met the eligibility requirements for a leave, this letter is to inform you that you have been removed from payroll effective April 24, 2003.

You may contact me at (302) 733-5013 if you have any questions about this letter. If you have questions regarding Christiana Care's Leave of Absence Policy, please contact the Employee Relations department at (302) 733-1120.

Sincerely,

Karen McCloud, RN
Nurse Manager 5D/TSU
Christiana Care Health System

B-0015

D0258

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

NICOLE VILLANUEVA,	:	
	:	C.A. No. 04-258-JJF
Plaintiff,	:	
	:	
v.	:	
	:	
CHRISTIANA CARE HEALTH SERVICES, INC.	:	
	:	
Defendant.	:	

CERTIFICATE OF SERVICE

I, Lori A. Brewington, do hereby certify that two (2) true and correct copies of the *Appendix to Plaintiff's Answering Brief in Opposition to Defendant's Motion for Summary Judgment* were sent by U.S. Mail, First Class, postage prepaid, on June 30, 2006 to the following:

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